<div align="center">

Remarks

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Applicant respectfully requests reconsideration of this application as amended.

Claims 1-9, 11-15, and 17-20 have been amended. No claims have been cancelled or added.

Claims 10, 16, and 21-25 were previously canceled. Therefore, claims 1-9, 11-15, and 17-20

are presented for examination.

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35 U.S.C. §102(b) Rejection

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Claims 1-9, 11-15 and 17-20 stand rejected under 35 U.S.C. §102(b) as being

anticipated by "Linux Device Drivers" by Rubini ("Rubini"). Applicant submits that the

present claims are patentable over Rubini.

Rubini discloses a guide for users who want to support computer peripherals under

the Linux operating system or who want to develop new hardware and run it under Linux. It

shows step-by-step how to write a driver for character devices, block devices, and network

interfaces, illustrated with examples you can compile and run. Rubini further focuses on

portability. (See, e.g., Rubini.)

Claim 1 recites:

> A computer-implemented method comprising:
> distributing a device driver that is compiled to execute functionality under command from a kernel, wherein the device driver includes code defining application programming interfaces (APIs) the device driver uses to execute the functionality and excludes header information including version identification data of the kernel and kernel symbols associated with the version identification data; and
> providing the device driver to a computer via an installation package, the device driver to dynamically create the header information for the device driver by obtaining the version identification data and the associated kernel symbols from the kernel when installed on the computer.

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Applicant submits that Rubini does not disclose or suggest distributing a device driver that is compiled to execute functionality under command from a kernel, wherein the device driver...excludes header information including version identification data of the kernel and kernel symbols associated with the version identification data, as recited by claim 1. Applicant can find no disclosure of suggestion of a such a feature anywhere in Rubini. The Office Action states that Rubini discloses this feature in its 'Version Dependency' section 2.2.1 when teaching that "[t]he compiler will define the symbol for you whenever you include <linux/module.h> (that's why hello.c earlier didn't need to declare it)." (Office Action mailed 5/3/06 at pgs. 2-3.)

However, this section of Rubini discusses a pre-compiled module code, and not a device driver that is already compiled and excluding version identification data of the kernel and kernel symbols associated with this version identification data. In fact, later in the 'Version Dependency' section of Rubini, it states that "[i]f you want to compile your module for a particular kernel version, *you have to include the specific header files for that kernel.*" (Rubini at §2.2.1 'Version Dependency', emphasis added.) As such, there is not disclosure or suggestion anywhere in Rubini of distributing a device driver that is compiled to execute functionality under command from a kernel, wherein the device driver excludes header information including version identification data of the kernel and kernel symbols associated with the version identification data. Therefore, claim 1, as well as its dependent claims, is patentable over Rubini.

Claim 11 also recites, in part, distributing a device driver that is compiled to execute functionality under command from a kernel, wherein the device driver...excludes header information including version identification data of the kernel and kernel symbols associated

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with the version identification data. As discussed above, Rubini does not disclose or suggest

such a feature. Therefore, claim 11, as well as its dependent claims, is patentable over

Rubini.

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains
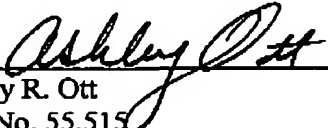
any issue with allowance of the case.

Applicant respectfully petitions for an extension of time to respond to the outstanding

Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our

Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such

an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: August 3, 2006

Ashley R. Ott
Reg. No. 55,515

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1026
(303) 740-1980

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